

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

Economic Impact Statement

LSA Document #09-6

Description of Rule:

Under IC 16-19-3-4, ISDH has the authority to adopt rules in order to protect or improve public health in the state, including rules concerning the operation of swimming and wading pools.

Under IC 16-19-3-5 (formerly IC 16-1-3-22), ISDH may adopt rules for the efficient enforcement of any of the provisions of that article.

This rule updates 410 IAC 6-2.1, *Public and Semi-Public Pools* which was promulgated in 2003. These rule changes are to address four concerns: to add a section regulating pools and spas at tourist homes; to clean up code citation errors and incorporate new federal law changes; to clarify/simplify sections of the rule that have been confusing; and to update the rule to incorporate the latest pool and spa operation science.

Economic Impact on Small Businesses

1. Estimate the number of small businesses, classified by industry sector, that will be subject to the proposed rule.

Indiana Code 4-22-2.1-4 defines a small business as any person, firm, corporation, limited liability company, partnership, or association that: (1) is actively engaged in business in Indiana and maintains its principal place of business in Indiana; (2) is independently owned and operated; (3) employs one hundred (100) or fewer full-time employees; and (4) has gross annual receipts of five million dollars (\$5,000,000) or less.

Water Parks – 4

Hotels with pools – 350

2. Estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.

There is one added record keeping requirement in the proposed rule. It is to keep a log of fecal accidents occurring in the pool, water chemistry information at the time of the accident, and the procedure followed in response to the accident. Fecal accidents will be infrequent, and most, if not all, pools operated by small businesses will not have to respond to such an accident.

3. Estimate of the total annual economic impact that compliance with the proposed rule will have on small businesses subject to the rule.

Implementation of this rule will add to most, but not all, public and semi-public pools operated by small businesses an estimated cost of \$10 to \$30 for additional signage. Also, pools that require shower facilities will have to purchase soap dispensers and incur the ongoing, albeit minimal, cost of providing soap if they don't already provide it. Mounted soap dispensers cost within the range of \$10 to \$120. On average, a gallon of liquid soap for the dispenser is \$13.00.

In the event of a fecal accident, the cost to raise the free chlorine residual to 20ppm will vary on the type of chlorine used by the pool and will range from approximately \$10.00 to \$45.00 per 10,000 gallons of pool water. The economic impact of the rule change will be for maintaining this level of free chlorine for an additional 4.75 hours for an indoor pool, but may be for up to an additional 22 hours for some outdoor pools. Economic impact consideration must also be given to the loss of use of the pool because of the increased amount of time the pool must be closed to achieve proper disinfection.

4. Statement justifying any requirement or cost that is imposed on small businesses by the rule; and not expressly required by the statute authorizing the agency to adopt the rule; or any other state or federal law.

The additional cost to small businesses is justified because of the benefit to public health. It will help prevent the harms caused by recreational water illnesses such as sickness and death, medical expenses, and loss of work.

5. Regulatory Flexibility Analysis

Other factors considered:

A. Establishment of less stringent compliance or reporting requirements for small businesses.

This current rule is less stringent; however, it is not effective enough in decreasing the potential harm caused by improperly operated public and semi-public pools.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

The effective date of the rule needs to be as soon as possible to increase the sanitary operation of public and semi-public pools.

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

The rule is as simple as it can be and is based on standards of the federal Centers for Disease Control and Prevention (CDC).

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

Operation or design standards are necessary to achieve the benefits of the rule.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

The state needs a uniform system to prevent the harms caused by improperly operated and maintained public and semi-public pools, so small businesses cannot be exempted from the requirements of the rule. Additionally, most of the provisions of the rule changes will cause only a nominal cost increase for small businesses. In fact, tourist homes will see a net decrease in costs because they are being exempted from some of the requirements in the current rule.

Conclusion

The changes proposed will have insignificant financial effect on the operations of small businesses in Indiana.

Submitted by:

Mike Mettler, Director
Environmental Public Health Division
Indiana State Department of Health
2 North Meridian Street, 5E
Indianapolis, Indiana 46204
(317) 233-7183
mmettler@isdh.in.gov